UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DONNA JACKSON,	)
	)
Plaintiff,	)
v.	) **No. 3:09-0038**
	) **JUDGE ECHOLS**
DEPARTMENT OF HUMAN SERVICES,	)
	)
Defendants.	)

ORDER

Pending before the Court are the Report and Recommendation ("R&R") entered by the

Magistrate Judge on June 8, 2009 (Docket Entry No. 16) and Defendants' Second Motion To

Dismiss (Docket Entry No. 14), to which Plaintiff Donna Jackson did not respond. No objections

to the R&R were filed.

In reviewing an R&R, the Court may accept, reject, or modify, in whole or in part, the

findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P.

72(b).

The Magistrate Judge recommends that the Court grant in part and deny in part the

Defendants' Second Motion to Dismiss Plaintiff's complaint. The Magistrate Judge recommends

that Plaintiff's Title VII claims for race and color discrimination should be dismissed because

Plaintiff did not assert such claims in her administrative charge filed with the Equal Employment

Opportunity Commission ("EEOC"). In her administrative charge, Plaintiff raised claims of

disability discrimination and retaliation under the Americans With Disabilities Act ("ADA"), and

the Magistrate Judge recommends that Defendants' motion to dismiss those claims should be denied.

1

Having carefully reviewed the entire file, the Court finds that no error of fact or law appears in the R&R. Accordingly,
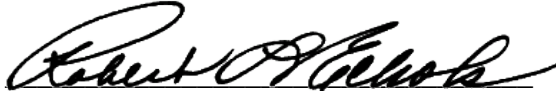
(1) the R&R of the Magistrate Judge (Docket Entry No. 16) is hereby ACCEPTED;

(2) Defendants' Second Motion to Dismiss (Docket Entry No. 14) is hereby GRANTED IN PART and DENIED IN PART;

(3) Plaintiff's claims for race and color discrimination under Title VII are hereby DISMISSED WITH PREJUDICE for failure to exhaust the claims in the administrative charge filed with the EEOC, but Plaintiff's claims for disability discrimination and retaliation under the ADA remain for litigation; and

(4) this case is hereby returned to the Magistrate Judge for further proceedings.

It is so ORDERED.

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ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE

2